

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1143822-D1 AND
ALL OTHER SEAMAN DOCUMENTS

Issued to: Donald T. O'Neill

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1602

Donald T. O'Neill

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 22 July 1966, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents for twelve months outright upon finding him guilty of misconduct. The six specifications found proved allege that while serving as an able seaman on board the United States SS ROBIN LOCKSLEY under authority of the document above described, between 6 April and 6 July 1966, Appellant wrongfully failed to perform his duties on five occasions and failed to join his ship on departure from a domestic port.

At the hearing on 13 July 1966, Appellant was not present or represented although he had been summoned to appear when served with the charge and specifications on 11 July. The Examiner entered a plea of "not guilty" to each of the specifications on behalf of Appellant and the hearing was conducted in absentia.

The Investigating Officer introduced in evidence several documents including entries in the ship's Official Logbook pertaining to the offenses alleged.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specifications had been proved. The Examiner then entered the above order of suspension.

FINDINGS OF FACT

From 6 April to 6 July 1966, Appellant was serving as an able seaman on board the United States SS ROBIN LOCKSLEY and acting under authority of his document while the ship was on a foreign voyage.

On 3 May 1966, while the ship was at East London, South Africa, Appellant failed to turn to assist in securing the vessel for sea and undocking.

While at sea on 3 May 1966, Appellant failed to stand his

regular 2000 to 2400 watch.

On 15 June 1966, while the ship was at Port Elizabeth, South Africa, Appellant failed to turn to secure the ship for sea and undocking, due to intoxication.

On 16 June 1966, while the ship was at sea, Appellant failed to stand his regular 0800 to 1200 watch due to intoxication.

On 16 June 1966, Appellant failed to report for fire and boat drill at sea between 1015 and 1028.

On 6 July 1966, Appellant failed to join his ship upon her departure from Boston, Massachusetts.

Appellant's prior record consists of a probationary suspension in 1965 for failure to perform duties and a six months' suspension on twelve month's probation in March 1966 for failure to join, absence without leave (5 specifications) and disobedience of orders.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is requested that the twelve months' suspension be reconsidered because Appellant was wrongfully blamed for some of the alleged offenses due to the Boatswain's dislike for Appellant.

OPINION

The allegations in the six specifications are supported by log entries made in substantial compliance with 46 U.S. Code 702. This constitutes a prima facie case proving the offenses since no evidence was introduced in opposition to the logbook entries. Appellant's opportunity to present evidence was waived when he did not attend the hearing. He may not introduce evidence on appeal. Therefore, his grounds for appeal are without merit. The twelve months' suspension is considered to be appropriate since it includes a prior six months' suspension placed on probation and because of Appellant's previous record of similar offenses.

ORDER

The order of the Examiner dated at New York, New York, on 22 July 1966, is AFFIRMED.

W.J. SMITH
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 21th day of April 1967.

INDEX

FAILURE TO JOIN

FAILURE TO PERFORM DUTIES
 intoxication as cause